

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOEL VELEZ,

Petitioner,

-against-

BRIAN FISCHER,

Respondent.  
-----X

WILLIAM H. PAULEY III, District Judge:

Petitioner Joel Velez ("Velez") filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his 2002 conviction and sentence for assault in the first degree and robbery in the second degree following a jury trial in New York State Supreme Court, Bronx County. In a Report and Recommendation dated October 19, 2007 (the "Report"), Magistrate Judge Frank Maas recommended that the petition be denied. As of this date, neither party has submitted any objection to the Report nor requested an extension of time in which to do so. This Court finds that the Report is not facially erroneous, and affirms and adopts it. Accordingly, it is

ORDERED that this petition for writ of habeas corpus is denied; and it is

FURTHER ORDERED that because Velez has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253(c), as amended by the Antiterrorism and Effective Death Penalty Act of 1996. In addition, this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438 (1962).

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The Clerk of the Court is directed to mark this case closed.

Dated: December 19, 2007  
New York, New York

SO ORDERED:

  
WILLIAM H. PAULEY III  
U.S.D.J.

*Copies mailed to:*

The Hon. Ronald L. Ellis  
United States Magistrate Judge

Joel Velez  
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